

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

CRIMINAL NO. 3:09-CR-272

v.

(Chief Judge Conner)

MARK A. CIAVARELLA, JR.,

:

Defendant

:

ORDER

AND NOW, this 8th day of January, 2018, upon consideration of the motion (Doc. 322) by defendant Mark A. Ciavarella, Jr. (“Ciavarella”), to vacate, set aside, or correct conviction and sentence under 28 U.S.C. § 2255, as well as the motion (Doc. 337) to amend the initial Section 2255 motion to include a claim pursuant to McDonnell v. United States, 579 U.S. __, 136 S. Ct. 2355 (2016), and following an evidentiary hearing convened on September 14, 2017, (see Doc. 353), and review of the parties’ respective briefs in support of and opposition to said motions, (Docs. 323, 329, 335, 338, 342, 343, 356, 357, 359, 360), and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. Ciavarella’s motion (Doc. 337) to amend the initial Section 2255 motion to include a McDonnell claim is GRANTED and Ciavarella’s Section 2255 motion (Doc. 322) is amended to include said claim.
2. Ciavarella’s Section 2255 motion (Doc. 322) is GRANTED to the extent the court determines Ciavarella was denied effective assistance of counsel as to Counts 1, 2, and 21 of the superseding indictment.
3. Ciavarella’s Section 2255 motion (Doc. 322) is DENIED in all other respects.

4. Ciavarella's convictions on Counts 1, 2, and 21 of the superseding indictment are VACATED and shall be the subject of a new trial to be scheduled forthwith.
5. A schedule for further proceedings shall issue by separate order.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania